

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2004 NOV 9 PM 9 40

CLERK *CS*

EDWARD SHATNEY)

Plaintiff,)

v.)

TONY AUGER, TRANSPORT HERVE)

LEMIEUX, INC. and METRO)

INTERNATIONAL ST-LAURENT, INC.,)

Defendants.)

CIVIL NO. 04-cv-311

DEPUTY CLERK

COMPLAINT

Plaintiff, EDWARD SHATNEY, by and through his attorneys, Axelrod & Adler, PLLC, files this Complaint against Defendants, Tony Auger, Transport Herve Lemieux, Inc. and Metro International St-Laurent, Inc., and in support thereof states as follows:

1. Edward Shatney is a natural person and a citizen of the Town of Lyndon, Caledonia County, Vermont.

2. Defendant, Tony Auger, is a natural person and, upon information and belief, a resident of Beloeil, Quebec, Canada.

3. Defendant, Transport Herve Lemieux, Inc., is a Canadian corporation with its principal place of business in St-Laurent, Quebec, Canada.

4. Defendant, Metro International St-Laurent, Inc., is a Canadian corporation with its principal place of business in St-Laurent, Quebec, Canada.

5. By this action, Plaintiff, Edward Shatney, seeks recovery for serious and debilitating injuries received in an accident occurring on or about February 12, 2003 in the Town of Sheffield, Caledonia County, Vermont.

6. The injuries at issue were caused when a tractor trailer truck operated by Defendant, Tony Auger, smashed into a car driven by the late Timothy F. Gray, and then rear-ended the state plow truck operated by Edward Shatney.

7. The amount in controversy exceeds the jurisdictional minimum of this court, being in excess of \$75,000.00 exclusive of interest and costs.

8. The court has diversity jurisdiction over suits between residents of Vermont and residents of Canada pursuant to 28 U.S.C. § 1332(A)(2).

FACTS AND CLAIMS

The preceding counts are realleged as if fully set forth herein.

9. On or about February 12, 2003, Edward Shatney was operating a Vermont Agency of Transportation plow truck, and was working clearing snow from the northbound lane of Interstate 91 in the Town of Sheffield, Vermont.

10. At all times material, the state plow truck, a 2001 International Model F2574, was being safely operated.

11. At all times material, the state plow truck was properly equipped with operational strobe and flashing lights, which were in use at the time of the collision.

12. At approximately 10:30 a.m. in the morning, Mr. Shatney was in the westerly (passing) lane on the northbound side of Interstate 91.

13. At that time and place, without warning, Mr. Shatney's state plow truck was violently slammed in the rear, damaging the vehicle and pushing the plow truck forward approximately 150 feet.

14. At that time and place, Defendant Tony Auger was operating a 1998 International Tractor Model 9200 and was pulling a Lodestar Trailer.

15. At said time and place, Defendant Tony Auger was operating the tractor trailer in a careless and negligent manner and at an excessive rate of speed for then existing conditions.

16. As a direct and proximate result of his negligent operation, Defendant Tony Auger smashed into the rear of the State of Vermont plow truck being driven by Edward Shatney.

17. As a direct and proximate result of being rear-ended, Mr. Shatney suffered numerous injuries.

18. As a direct and proximate result of the impact, Mr. Shatney was unable to continue with employment and suffered permanent disability and bodily injury.

19. At the time and place of the accident, Defendant Tony Auger was working in the course of his employment for Defendant Transport Herve Lemieux, Inc. and/or Defendant Metro International St-Laurent, Inc.

20. Defendants Transport Herve Lemieux, Inc. and Metro International St-Laurent, Inc. are vicariously liable for the negligent operation of the tractor trailer by Defendant Tony Auger.

21. As a direct and proximate result of the injuries suffered by Edward Shatney, he suffered bodily injury, pain and suffering, loss of income, loss of employability and is entitled to compensation therefor.

WHEREFORE, Plaintiff Edward Shatney prays for judgment against Defendants Tony Auger, Transport Herve Lemieux, Inc. and Metro International St-Laurent, Inc. for damages including but not limited to the following:

- a. Medical expenses, past, present and future;
- b. Lost income, past, present and future;
- c. Pain and suffering;
- d. Consequential damages;
- e. Loss of enjoyment of life;
- f. Compensation for the expenses of implementing a life care plan;
- g. Attorney's fees; and
- h. Such other relief as is just.

Dated at St. Johnsbury, Vermont, this 8th day of November, 2004.

AXELROD & ADLER, PLLC
Attorneys for Plaintiff

By: Steven A. Adler
Steven A. Adler

DEMAND FOR JURY TRIAL

A jury trial is demanded on all issues.

Dated at St. Johnsbury, Vermont, this 8th day of November, 2004.

AXELROD & ADLER, PLLC
Attorneys for Plaintiff

By: Steven A. Adler
Steven A. Adler